

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

Case No. 5:17-CR-365 (DNH)

v.

GOVERNMENT SENTENCING
MEMORANDUM

SHACAREY M. JAMES,

Defendant.

The United States of America, by and through its counsel of record, the United States Attorney for the Northern District of New York, hereby files its sentencing memorandum requesting that the Court impose a sentence within the guideline range of 0-6 months, impose an order for restitution of \$3,520.11, impose an order of forfeiture of \$1,300, and order a period of supervised release of three years. The parties entered into a plea agreement in this case which included an appellate waiver, whereby the defendant waived her right to appeal this case unless the sentence imposed exceeded 6 months' imprisonment.

I. INTRODUCTION

On April 5, 2018, the defendant entered a guilty plea pursuant to a plea agreement to Count 1 and Count 2 of an Indictment charging her with two counts of Bank Fraud, in violation of 18 U.S.C. § 1344(2). The defendant is scheduled to be sentenced on August 2, 2018.

II. APPLICABLE STATUTORY AND GUIDELINES PROVISIONS

1. Statutory Maximum Sentences

The defendant's conviction for Bank Fraud, in violation of 18 U.S.C. § 1344(2) subjects the defendant to a statutory maximum term of thirty years imprisonment and a five year maximum term of supervised release, *see* 18 U.S.C. § 3583; and a fine of \$1,000,000. *See* 18 U.S.C. § 3571.

2. Guidelines Provisions

a. Offense Level

Under the federal sentencing guidelines, the "base offense level" for the defendant's conviction for Bank Fraud is 7. *See* U.S.S.G. § 2L1.1(a)(3). That level is neither increased nor decreased as a result of any "specific offense characteristics."

b. Acceptance of Responsibility

The defendant has demonstrated acceptance of responsibility for her conduct. Therefore, the base offense level is decreased by two levels, resulting in a total offense level of 5. *See* U.S.S.G. § 3E1.1(a).

c. Criminal History Category

According to the presentence report, the defendant's criminal history category is I. The government agrees with the Probation Office's determination of the defendant's criminal history category.

d. Guidelines Range and Sentence

As described above, the total offense level is 5 and the criminal history category is I. This is consistent with the calculations in the presentence report.

As a result of the above-described calculations, absent any departures, the federal sentencing guidelines advise that the defendant receive a sentence of between 0 and 6 months'

imprisonment; a fine of \$500 to \$1,000,000; and a supervised release term of not more than five years.

III. GOVERNMENT SENTENCING RECOMMENDATION

Based on all of the information before the Court, the government respectfully requests that the Court impose a sentence within the guidelines range followed by a period of three years supervised release. The government requests the imposition of an order of restitution of \$3,520.11, with the restitution being monitored for payment during the term of any period of supervised release. Additionally, the government requests the imposition of a forfeiture order for \$1,300 representing the unrecovered proceeds obtained by the defendant from the two checks. Finally, the government would ask for a fine in the instant matter, however, the presentence investigation notes that based on the defendant's financial resources, obligations, projected earnings and income it does not appear she has the ability to pay a fine.

The sentence that the government recommends here is sufficient, but not greater than necessary, to comply with the sentencing purposes in 18 U.S.C. § 3553(a)(2).

Respectfully submitted this 12th day of July, 2018.

GRANT C. JAQUITH
United States Attorney

By: _____
/s/ *Tamara B. Thomson*
Tamara B. Thomson
Assistant United States Attorney
Bar Roll No. 515310

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CERTIFICATE OF SERVICE

I hereby certify that on July 12, 2018, the foregoing was electronically filed with the Clerk of the Court by using the CM/ECF system, which will send a notice of electronic filing to the counsel of record for the defendant.

/s/ *Brianna Strauss*

Brianna Strauss
Legal Assistant